IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 05-cv-329-GKF (PJC)**
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

STATE OF OKLAHOMA'S RESPONSE IN OPPOSITION TO TYSON DEFENDANTS' MOTION IN LIMINE TO PRECLUDE DEPOSITION TESTIMONY OF PRESTON KELLER (Dkt. #2403)

COMES NOW the Plaintiff, the State of Oklahoma, ex rel. W.A. Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, J.D. Strong, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA ("State"), and respectfully responds in opposition to Defendants' Motion in Limine to Exclude Deposition Testimony of Preston Keller (Dkt. #2403) ("Motion in Limine") as follows:

I. Introduction and Background

Preston Keller ("Mr. Keller") was employed by Defendant, Tyson Foods, Inc. ("Tyson"), from 1999 to January 31, 2005. Ex. A (Keller Depo., pp. 16 and 23). Prior to his employment with Tyson, Mr. Keller obtained a degree in environmental soil and water science from the University of Arkansas. *Id.* at 10.

Mr. Keller's first job title with Tyson was nutrient management specialist. Ex. A (Keller Depo. at 15). As a nutrient management specialist, Mr. Keller did grower education regarding environmental regulations for Tyson's growers nationwide. *Id.* at 15-16. During his employment with Tyson, Mr. Keller also became certified to write nutrient management plans.

Id. at 10-11. Tyson paid for Mr. Keller to receive the training necessary to obtain his certification to write nutrient management plans. *Id.* at 12.

After serving at Tyson as a nutrient management specialist for approximately two years, Mr. Keller was promoted to the position of regional director of environment. Ex. A (Keller Depo. at 19). As regional director of environment, Mr. Keller's job responsibilities were primarily in the area of processing plant environmental issues, such as wastewater and ammonia systems. *Id.* He also continued to deal with nutrient management issues for Tyson. *Id.*

After one year as regional director of environment, Mr. Keller was promoted to the position of Tyson's director of environmental agriculture. Ex. A (Keller Depo. at 23). As director of environmental agriculture, Mr. Keller facilitated grower education and was responsible for ensuring that Tyson's company-owned farms were in compliance with all state and federal environmental regulations. *Id.* at 24-5. Mr. Keller was also charged with ensuring that Tyson had a voice in developing state and federal regulations. *Id.* As director of environmental agriculture, Mr. Keller's geographic scope of responsibility spanned the entire company. *Id.* at 26.

During Mr. Keller's employment with Tyson, he was "constantly reading" materials relating to poultry-related environmental issues. Ex. A (Keller Depo. at 37). Twice a year, Mr. Keller and other environmental personnel at Tyson would get together and discuss poultry-related environmental concerns. *Id.* at 39.

At some point during his tenure, Mr. Keller created a PowerPoint presentation entitled, "Environmental Poultry Farm Management Workshop". Ex. B (Keller PowerPoint). The fourth slide of Mr. Keller's PowerPoint presentation reads in part as follows:

- **Phosphorus - is mobile**
  - causes water quality problems
  - accumulates in the soil

Id. The State took Mr. Keller's deposition on October 15, 2008. Ex. A (Keller Depo). During his deposition, Mr. Keller acknowledged that the PowerPoint presentation was part of a Tyson training program and was drafted during his employment with Tyson. *Id.* at 81-83. Additionally, Mr. Keller acknowledged during his deposition that he specifically wrote the slide concerning phosphorus. *Id.* at 86-7. When asked to explain what he meant when he wrote that phosphorus "causes water quality problems," Mr. Keller testified that phosphorus causes water quality problems when it is over-applied to the land. *Id.* at 87-8.

In the seventh slide of the PowerPoint presentation, Mr. Keller described a "pro-active" environmental approach as including taking "the extra step to minimize the environmental impact of litter disposal . . . ." Ex. B (Keller PowerPoint at TSN117467SOK). Mr. Keller assumes he wrote this slide as well. Ex. A (Keller Depo. at 90). During his deposition, Mr. Keller explained that "litter disposal" meant land application of poultry waste and that one of the "environmental impacts of poultry litter disposal" can be phosphorus-related water quality problems. *Id.*

In addition to his testimony concerning the PowerPoint presentation, Mr. Keller also testified regarding a "Tyson Environmental Poultry Farm Management" manual that was in place during his employment. Ex. A (Keller Depo. at 95-96). In the context of discussing a statement from the Tyson manual that "phosphorus-laden soils . . . can be eroded by rainfall and particles can then be transported into surface waters," Mr. Keller gave the following testimony:

Q. You know poultry waste contains phosphorus, do you not?
A. Yes.
Q. All right and when you land apply poultry waste, if there is heavy rain, there's propensity for runoff; correct?

***

A. If you apply it too close to the rain, you bet.

Id. at 100-01.

The State has designated portions of Mr. Keller's videotaped deposition to be played at trial. Mr. Keller currently resides in Stilwell, Oklahoma, approximately 112 miles from the Northern District courthouse. Ex. C (Keller Map).

On August 5, 2009, the Tyson Defendants filed their Motion in Limine, seeking to preclude admission of Mr. Keller's deposition testimony at trial. Dkt. #2403. While portions of Mr. Keller's testimony are clearly damaging to Tyson's defenses in this action, this is no basis to preclude admission of the Keller deposition. The State's designation of Mr. Keller's deposition testimony is appropriate and fully compliant with the applicable Federal Rules. The Motion in Limine should be denied.

II. Argument

PROPOSITION: The Deposition Testimony of Mr. Keller Should *Not* be Precluded

A. The Deposition Testimony Satisfies Rule 32(a)

In pertinent part, Rule 32(a) of the Federal Rules of Civil Procedure provides:

> (3) *Deposition of Party, Agent, or Designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).
>
> (4) *Unavailable Witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:
>
> ***
>
> (B) that the witness is **more than 100 miles from the place of hearing or trial** or is outside the United States, unless it appears that the witness's absence was procured by the party offering the deposition;

(emphasis added). The Tyson Defendants erroneously assert that Mr. Keller's deposition testimony is inadmissible under Rule 32(a) because "Mr. Keller was not employed by the Tyson

Defendants at the time of his deposition . . . ." *See* Motion at 2. However, as clearly shown above, use of deposition testimony under Rule 32(a) is not limited to deponents who are current officers, managing agents or designees of a corporate litigant. Because Mr. Keller resides "at a greater distance than 100 miles from the place of . . . trial," he is "unavailable" and his deposition testimony is properly designated under Rule 32(a). *See* Ex. C (Keller Map).

B. The Deposition Testimony is Excepted From Hearsay Rules and is Relevant and Admissible

Tyson next argues that even if the State were to show that the deposition testimony of Mr. Keller can be used under Rule 32(a), the testimony is still inadmissible because it does constitute an admission by a party-opponent under Rule 801(a)(2)(D) of the Federal Rules of Evidence. *See* Motion at 3. A statement is not hearsay under Rule 801(d)(2)(D) if it is made by the opposing party's "agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship" (emphasis added). However, Mr. Keller's deposition testimony need not satisfy Rule 801(d)(2)(D) to be admissible. This is so because while deposition testimony is ordinarily inadmissible hearsay, Rule 32(a) creates an exception to the hearsay rules. *Angelo v. Armstrong World Indus., Inc.,* 11 F.3d 957, 962-63 (10th Cir. 1993).

Under Rule 802, hearsay is admissible where allowed by the Federal Rules of Evidence, or "by other rules prescribed by the Supreme Court pursuant to statutory authority or by Act of Congress." Fed. R. Evid. 802. Rule 32(a)(4)(B) is one of these "other rules." *See* Fed.R.Evid. 802 Advisory Committee's Note (identifying Rule 32 as one of the "other rules"). In addition to the Tenth Circuit's decision in *Angelo*, several other circuit courts have recognized that Rule 32(a) is an independent exception to the hearsay rule. *See Nationwide Life Ins. Co. v. Richards,* 541 F.3d 903, 914-15 (9th Cir. 2008); *Ueland v. United States,* 291 F.3d 993, 996 (7th Cir. 2002)

("Rule 32(a), as a freestanding exception to the hearsay rule, is one of the 'other rules' to which Fed. R. Evid. 802 refers. Evidence authorized by Rule 32(a) cannot be excluded as hearsay, unless it would be inadmissible even if delivered in court."); *S. Indiana Broadcasting, Ltd. v. FCC,* 935 F.2d 1340, 1341-42 (D.C. Cir.1991) (recognizing that Fed. R. Civ.P. 32(a) creates an exception to the hearsay rule); *United States v. Vespe,* 868 F.2d 1328, 1339 (3d Cir.1989) (Rule 32(a)(3)(B) "constitutes an independent exception to the hearsay rule"); *Carey v. Bahama Cruise Lines,* 864 F.2d 201, 204 & n. 2 (1st Cir. 1988) (explaining that Rule 32(a)(3)(B) "is more permissive than Federal Rule of Evidence 804(a)(5)"). In sum, because Mr. Keller's deposition testimony at issue satisfies Rule 32(a) (a hearsay exception), the State need not show that the testimony constitutes admissions by a party-opponent under Fed. R. Evid. 801(a)(2)(D).[1] Simply put, because Mr. Keller is "unavailable," his deposition may be properly played at trial, and his testimony will not constitute "out-of-court" statements.

Having established that the hearsay rule does not bar admission of Mr. Keller's deposition testimony, the designated deposition testimony is otherwise admissible as being relevant. The designated testimony largely goes to Tyson's knowledge of the environmental impacts of land-applied poultry waste. Indeed, Mr. Keller's testimony tends to prove Tyson's knowledge that the application of poultry waste in the IRW presents a risk of environmental impact due to phosphorus run-off and leaching. Such knowledge is particularly relevant in

[1] In any event, the above-discussed statements from the PowerPoint presentation which Mr. Keller drafted and used during his employment with Tyson clearly do constitute admissions by a party-opponent. Again, statement is not hearsay under Rule 801(d)(2)(D) if it is made by the opposing party's "agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship" (emphasis added). Mr. Keller was an agent or employee of Tyson at the time that the PowerPoint presentation was written. Further, the PowerPoint presentation concerned environmental matters, which were undoubtedly within the scope of his employment. And the statements in the PowerPoint presentation were made during Mr. Keller's employment with Tyson. Therefore, the PowerPoint presentation is independently admissible under Rule 801(d)(2)(D).

establishing the applicability of Restatement (Second) of Torts § 427B.[2] Such knowledge is also relevant to the Court's penalty determination under 27A Okla.Stat. § 2-3-504(H). As a whole, Mr. Keller's testimony also supports the State's substantive claims that phosphorus from land-applied poultry waste in the IRW: (1) is running off -- and is likely to -- runoff; (2) causes water quality problems; and (3) accumulates in the soil. In sum, the deposition testimony of Mr. Keller should not be precluded.

C. To the Extent That Mr. Keller's Testimony Constitutes Opinion Testimony, Such Opinion Testimony is Admissible

In the last portion of the Motion in Limine, the Tyson Defendants seek to exclude Mr. Keller's "expert opinions." Motion at 3-4. As an example of such an "expert opinion," the Tyson Defendants recite the above-quoted testimony wherein Mr. Keller simply acknowledged that there is a propensity for phosphorus runoff when land application occurs "too close to the rain." Ex. A (Keller Depo. at 100-01). Contrary to Defendants' position in this case, the concept of phosphorus running downhill (*i.e.,* runoff) is not some novel scientific theory; it is well-established. *See, e.g., Coeur D'Alene Tribe v. Asarco, Inc.*, 280 F. Supp. 2d 1094, 1113 (D. Idaho 2003) ("The Defendants were aware that water runs downhill and that the hazardous substances dumped would not stay in the location they were dumped").

Second, to the extent that any of Mr. Keller's testimony is "opinion" testimony, such testimony is not "expert opinion" and is admissible under Fed. R. Evid. 701. In Mr. Keller's various environmental positions with Tyson, he plainly dealt with nutrient runoff issues as part of his daily duties. Rule 701 provides that:

> "If the witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a)

---

[2] Under Restatement (Second) of Torts § 427B, one is liable for the acts of one's independent contractor if one is aware or should be aware that in the ordinary course of doing the contract work, a nuisance or trespass is likely to result.

> rationally based on the perception of the witness, (b) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue, and (c) not based on scientific, technical or other specialized knowledge within the scope of Rule 702."

Mr. Keller's "opinion" testimony meets the Rule 701 standard of admissibility. Mr. Keller's testimony that phosphorus tends to runoff of fields if land application occurs too close to a rain event -- to the extent that it is "opinion or inference" at all -- is "rationally based on the perception" of Mr. Keller gained during his employment with Tyson. Indeed, Mr. Keller's testimony in this regard is consistent with Tyson's own "Tyson Environmental Poultry Farm Management" which provided the context for his testimony. Mr. Keller's opinions are also relevant and helpful to a clear understanding of his testimony and does not fall within the scope of Rule 702. Consequently, to the extent that Mr. Keller's testimony is "opinion or inference," such testimony is admissible under Rule 701. *See, e.g., United States v. Hoffman-Vaile,* 568 F.3d 1335, 1342 (11th Cir. 2009).

Lastly, to the extent that Mr. Keller's opinions constitute admissions by a party-opponent -- such as those expressed in Mr. Keller's PowerPoint presentation -- there is no need to show any indicia of trustworthiness as required by Rules 701 or 702 of the Federal Rules of Evidence. As the Tenth Circuit reasoned in *Grace United Methodist Church v. City of Cheyenne,* 451 F.3d 646, 667 (10th Cir. 2006):

> While opinion testimony admitted pursuant to Rule 701 "requires a lay witness to have first-hand knowledge of the events he is testifying about so as to present only the most accurate information to the finder of fact," *United States v. Hoffner,* 777 F.2d 1423, 1425 (10th Cir. 1985), an admission of a party opponent needs no indicia of trustworthiness to be admitted. *United States v. Pinalto,* 771 F.2d 457, 459 (10th Cir. 1985) ("The district court erroneously viewed trustworthiness as a separate requirement of admission under Section 801(d)(2)(A)."). Thus, as the court said in *Jewel v. CSX Transp., Inc.,* 135 F.3d 361, 365 (6th Cir. 1998), "[t]he admissibility of statements of a party-opponent is grounded not in the presumed trustworthiness of the statements, but on 'a kind of estoppel or waiver theory, that

> a party should be entitled to rely on his opponent's statements.' " (quoting *United States v. DiDomenico,* 78 F.3d 294, 303 (7th Cir. 1996)).

(emphasis added). In this vein, the Tenth Circuit has repeatedly held that "an admission of a party-opponent may be introduced in evidence even though the declarant lacked personal knowledge of the matter asserted." *Grace United Methodist Church,* 451 F.3d at 667 (citing *Smedra v. Stanek,* 187 F.2d 892, 894 (10th Cir. 1951)).

Consequently, this opinion testimony is admissible under Rule 701. *See, e.g., United States v. Hoffman-Vaile,* 568 F.3d 1335, 1342 (11th Cir. 2009).

Respectfully submitted,

W.A. Drew Edmondson, OBA # 2628
ATTORNEY GENERAL
Kelly H. Burch, OBA #17067
ASSISTANT ATTORNEY GENERAL
STATE OF OKLAHOMA
313 N.E. 21st Street
Oklahoma City, OK 73105
(405) 521-3921

M. David Riggs, OBA #7583
Joseph P. Lennart, OBA #5371
Richard T. Garren, OBA #3253
Sharon K. Weaver, OBA #19010
Robert A. Nance, OBA #6581
D. Sharon Gentry, OBA #15641
David P. Page, OBA #6852
RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS
502 West Sixth Street
Tulsa, OK 74119
(918) 587-3161

/s/ Robert M. Blakemore
Louis W. Bullock, OBA #1305
Robert M. Blakemore, OBA #18656
BULLOCK BULLOCK & BLAKEMORE

110 West 7th Street, Suite 707
Tulsa, OK 74119-1031
(918) 584-2001

Frederick C. Baker (*pro hac vice*)
Elizabeth C. Ward (*pro hac vice*)
Elizabeth Claire Xidis (*pro hac vice*)
MOTLEY RICE, LLC
28 Bridgeside Boulevard
Mount Pleasant, SC 29465
(843) 216-9280

William H. Narwold (*pro hac vice*)
Ingrid L. Moll (*pro hac vice)*
MOTLEY RICE, LLC
20 Church Street, 17th Floor
Hartford, CT 06103
(860) 882-1676

Jonathan D. Orent (*pro hac vice)*
Michael G. Rousseau (*pro hac vice)*
Fidelma L. Fitzpatrick (*pro hac vice)*
MOTLEY RICE, LLC
321 South Main Street
Providence, RI 02940
(401) 457-7700

ATTORNEYS FOR PLAINTIFF,
STATE OF OKLAHOMA

CERTIFICATE OF SERVICE

I certify that on the 20th day of August, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W.A. Drew Edmondson, Attorney General — fc_docket@oag.ok.gov
Kelly Hunter Burch, Assistant Atty General — kelly.burch@oag.ok.gov
OFFICE OF THE ATTORNEY GENERAL , STATE OF OKLAHOMA

M. David Riggs — driggs@riggsabney.com
Joseph P. Lennart — jlennart@riggsabney.com
Richard T. Garren — rgarren@riggsabney.com
Sharon K. Weaver — sweaver@riggsabney.com
Robert A. Nance — rnance@riggsabney.com
D. Sharon Gentry — sgentry@riggsabney.com

David P. Page dpage@riggsabney.com
RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS

Louis W. Bullock lbullock@bullock-blakemore.com
Robert M. Blakemore bblakemore@bullock-blakemore.com
BULLOCK BULLOCK & BLAKEMORE

Frederick C. Baker fbaker@motleyrice.com
William H. Narwold bnarwold@motleyrice.com
Elizabeth C. (Liza) Ward lward@motleyrice.com
Elizabeth Claire Xidis cxidis@motleyrice.com
Ingrid L. Moll imoll@motleyrice.com
Jonathan D. Orent jorent@motleyrice.com
Michael G. Rousseau mrousseau@motleyrice.com
Fidelma L. Fitzpatrick ffitzpatrick@motleyrice.com
MOTLEY RICE, LLC
COUNSEL FOR PLAINTIFF, STATE OF OKLAHOMA

William D. Perrine wperrine@pmrlaw.net
Robert P. Redemann rredemann@pmrlaw.net
David C. Senger david@cgmlawok.com
PERRINE, McGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC

Robert E. Sanders rsanders@youngwilliams.com
E. Stephen Williams steve.williams@youngwilliams.com
YOUNG WILLIAMS
COUNSEL FOR DEFENDANT CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.

John H. Tucker jtucker@rhodesokla.com
Kerry R. Lewis klewis@rhodesokla.com
Colin H. Tucker chtucker@rhodesokla.com
Theresa Noble Hill thill@rhodesokla.com
RHODES, HIERONYMUS, JONES, TUCKER & GABLE

Terry W. West terry@thewestlawfirm.com
THE WEST LAW FIRM

Delmar R. Ehrich dehrich@faegre.com
Bruce Jones bjones@faegre.com
Krisann C. Kleibacker Lee kklee@faegre.com
Todd P. Walker twalker@faegre.com
Christopher H. Dolan cdolan@faegre.com
Melissa C. Collins mcollins@faegre.com
Colin C. Deihl cdeihl@faegre.com
Randall E. Kahnke rkahnke@faegre.com
FAEGRE & BENSON LLP
COUNSEL FOR DEFENDANT CARGILL, INC. and CARGILL TURKEY PRODUCTION, LLC

George W. Owens gwo@owenslawfirmpc.com

Randall E. Rose rer@owenslawfirmpc.com
OWENS LAW FIRM, P.C.

James M. Graves jgraves@bassettlawfirm.com
Gary V. Weeks gweeks@bassettlawfirm.com
Woody Bassett wbassett@bassettlawfirm.com
K.C. Dupps Tucker kctucker@bassettlawfirm.com
Earl Lee "Buddy" Chadick bchadick@bassettlawfirm.com
Vincent O. Chadick vchadick@bassettlawfirm.com
BASSETT LAW FIRM
COUNSEL FOR DEFENDANT GEORGE'S INC. AND GEORGE'S FARMS, INC.

A. Scott McDaniel smcdaniel@mhla-law.com
Nicole Longwell nlongwell@mhla-law.com
Philip D. Hixon phixon@mhla-law.com
Craig A. Mirkes cmirkes@mhla-law.com
McDANIEL HIXON LONGWELL & ACORD, PLLC

Sherry P. Bartley sbartley@mwsgw.com
MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC
COUNSEL FOR DEFENDANT PETERSON FARMS, INC.

John R. Elrod jelrod@cwlaw.com
Vicki Bronson vbronson@cwlaw.com
P. Joshua Wisley jwisley@cwlaw.com
Bruce W. Freeman bfreeman@cwlaw.com
D. Richard Funk rfunk@cwlaw.com
CONNER & WINTERS, LLP
COUNSEL FOR DEFENDANT SIMMONS FOODS, INC.

Robert W. George robert.george@tyson.com
L. Bryan Burns bryan.burns@tyson.com
Timothy T. Jones tim.jones@tyson.com
TYSON FOODS INC

Michael R. Bond michael.bond@kutakrock.com
Erin W. Thompson erin.thompson@kutakrock.com
Dustin Darst dustin.darst@kutakrock.com
KUTAK ROCK LLP

Stephen Jantzen sjantzen@ryanwhaley.com
Paula Buchwald pbuchwald@ryanwhaley.com
Patrick M. Ryan pryan@ryanwhaley.com
RYAN, WHALEY & COLDIRON

Thomas C. Green tcgreen@sidley.com
Mark D. Hopson mhopson@sidley.com
Timothy Webster twebster@sidley.com
Jay T. Jorgensen jjorgensen@sidley.com
Gordon D. Todd gtodd@sidley.com

Erik J. Ives eives@sidley.com
SIDLEY AUSTIN LLP
COUNSEL FOR DEFENDANTS TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., and COBB-VANTRESS, INC.

R. Thomas Lay rtl@kiralaw.com
KERR, IRVINE, RHODES & ABLES

Jennifer S. Griffin jgriffin@lathropgage.com
David Brown dbrown@lathropgage.com
Frank M. Evans III fevans@lathropgage.com
LATHROP & GAGE, L.C.
COUNSEL FOR DEFENDANT WILLOW BROOK FOODS, INC.

Robin S. Conrad rconrad@uschamber.com
NATIONAL CHAMBER LITIGATION CENTER

Gary S. Chilton gchilton@hcdattorneys.com
HOLLADAY, CHILTON AND DEGIUSTI, PLLC
COUNSEL FOR US CHAMBER OF COMMERCE AND AMERICAN TORT REFORM ASSOCIATION

D. Kenyon Williams, jr. kwilliams@hallestill.com
Michael D. Graves mgraves@hallestill.com
HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON
COUNSEL FOR POULTRY GROWERS / INTERESTED PARTIES / POULTRY PARTNERS, INC.

Richard Ford richard.ford@crowedunlevy.com
LeAnne Burnett leanne.burnett@crowedunlevey.com
CROWE & DUNLEVY
COUNSEL FOR OKLAHOMA FARM BUREAU, INC.

Kendra A. Jones, Assistant Attorney General kendra.jones@arkansasag.gov
Charles L. Moulton, Sr. Ass't AG charles.moulton@arkansasag.gov
OFFICE OF THE ATTORNEY GENERAL, STATE OF ARKANSAS
COUNSEL FOR STATE OF ARKANSAS

Mia Vahlberg mvahlberg@gablelaw.com
GABLE GOTWALS

James T. Banks jtbanks@hhlaw.com
Adam J. Siegel ajsiegel@hhlaw.com
HOGAN & HARTSON
COUNSEL FOR NATIONAL CHICKEN COUNCIL, U.S. POULTRY & EGG ASS'N AND NATIONAL TURKEY FEDERATION

John D. Russell jrussell@fellerssnider.com
William A. Waddell, Jr. waddell@fec.net

David E. Choate dchoate@fec.net
FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS P.C.
COUNSEL FOR ARKANSAS FARM BUREAU FEDERATION

Barry G. Reynolds reynolds@titushillis.com
Jessica E. Rainey jrainey@titushillis.com
TITUS HILLIS REYNOLDS LOVE DICKMAN & McCALMON

William S. Cox III wcox@lightfootlaw.com
Nikaa B. Jordan njordan@lightfootlaw.com
LIGHTFOOT FRANKLIN & WHITE LLC
COUNSEL FOR AMERICAN FARM BUREAU FEDERATION and NATIONAL CATTLEMEN'S BEEF ASSOCIATION, AMICUS CURIAE

Richard Mullins richard.mullins@mcafeetaft.com
McAFEE & TAFT PC
COUNSEL FOR TEXAS FARM BUREAU, TEXAS CATTLE FEEDERS ASSN, TEXAS PORK PRODUCERS ASSN, AND TEXAS ASSN OF DAIRYMEN

/s/ Robert M. Blakemore
Robert M. Blakemore